

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

DAVID T. GILCHRIST,

Plaintiff,

vs.

CAPITAL ONE SERVICES, LLC,

Defendant.

No. 3:14-cv-05066-RBL

DEFENDANT CAPITAL ONE SERVICES,
LLC'S ANSWER TO PLAINTIFF'S
COMPLAINT

Defendant Capital One Services, LLC ("Capital One"), by and through its undersigned counsel, answers Plaintiff's Verified Complaint for Relief (the "Complaint") as follows.

Except as expressly admitted or qualified hereafter, Capital One denies each and every allegation of the Complaint.

Answer to Plaintiff's Claim

Capital One denies that it owes Plaintiff \$5,000. Capital One further denies that it violated Washington State law, either statutes or common law, and denies that it violated the Telephone Consumer Protection Act ("TCPA").

DEFENDANT CAPITAL ONE SERVICES, LLC'S
ANSWER TO PLAINTIFF'S COMPLAINT – 1

Case No. 3:14-cv-05066-RBL
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GRAHAM & DUNN PC
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Seattle, Washington 98121-1128
(206) 624-8300 • (206) 340-9599 Fax

Affirmative Defenses

1. The Complaint fails to state a claim upon which relief may be granted.
2. Plaintiff failed to mitigate his damages, if any.
3. Plaintiff's claims are barred, in whole or in part, by any amount owing from Plaintiff to Capital One Bank (USA), N.A.
4. Plaintiff's claims are barred, in whole or in part, by the terms and conditions of his customer agreement with Capital One and Capital One Bank (USA), N.A.
5. Plaintiff's claims are barred, in whole or in part, by his prior express consent.
6. Plaintiff's claims are barred, in whole or in part, due to his established business relationship with Capital One.
7. If any violation of law occurred, which Capital One denies, the violation was unintentional and resulted from a bona fide error notwithstanding Capital One's maintenance of procedures reasonably adopted to avoid the error.
8. Capital One expressly reserves the right to assert other affirmative defenses as this action proceeds.

Wherefore, Capital One respectfully requests that the Court:

- a. Dismiss all of Plaintiffs' claims against Capital One with prejudice and on the merits;
- b. Award Capital One all costs, disbursements, and reasonable attorney fees allowed by law; and
- c. Grant Capital One any such further relief to which it may be entitled.

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DEFENDANT CAPITAL ONE SERVICES, LLC'S
ANSWER TO PLAINTIFF'S COMPLAINT – 2

1 DATED this 28th day of January, 2014.

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3 GRAHAM & DUNN PC

4 By: s/ Steven A. Miller
5 Steven A. Miller, WSBA # 30388
Email: smiller@grahamdunn.com

6 Attorneys for Defendant Capital One
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DEFENDANT CAPITAL ONE SERVICES, LLC'S
ANSWER TO PLAINTIFF'S COMPLAINT – 3

CERTIFICATE OF SERVICE

The undersigned certifies under the penalty of perjury under the laws of the State of Washington that I am now and at all times herein mentioned, a citizen of the United States, a resident of the State of Washington, over the age of eighteen years, not a party to or interested in the above-entitled action, and competent to be a witness herein.

On the date given below I caused to be served the foregoing DEFENDANT CAPITAL ONE SERVICES, LLC'S ANSWER TO PLAINTIFF'S COMPLAINT on the following individual in the manner indicated:

David T. Gilchrist
457 21st Avenue
Longview, WA 98632

☒ (X) Via U.S First Class Mail
☐ () Via Facsimile
☐ () Via Hand Delivery
☐ () Via ECF

SIGNED this 28th day of January, 2014, at Seattle, Washington.

s/ Valerie K. Losey
Valerie K. Losey, Legal Assistant

DEFENDANT CAPITAL ONE SERVICES, LLC'S
ANSWER TO PLAINTIFF'S COMPLAINT – 4

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